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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/693,584

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Baiyi Zhao

2002B130/2

1077

23455

7590

07/07/2008

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EXAMINER

MCDONOUGH, JAMES E

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/693,584	<b>Applicant(s)</b> ZHAO ET AL.
<b>Examiner</b> JAMES E. MCDONOUGH	<b>Art Unit</b> 1793

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Jerry A Lorengo/  
Supervisory Patent Examiner, Art Unit 1793

Continuation of 11, does NOT place the application in condition for allowance because: Applicants argue that halogen carry a different charge than hydrocarbyl ligands. This is not persuasive because as stated before both halogens and hydrocarbyl ligands on a metal possess a minus one charge. Applicants argue that a boron activator produces inactive systems when the catalyst is halogenated but will sometimes work when the catalyst is alkylated, and shows that halogens and hydrocarbyls are not equivalent in borate activator containing systems. This is not persuasive as the examiner can find to teaching of borane in the instant claims. Applicants argue that since Quian is using group 4 metals one skilled in the art would never look to it for information on compounds of group 8, 9, and 10 metals, and argue that late transition metals are harder to make or less stable. This is not persuasive because it is not understood how the difficulty or stability of a compound adds to its novelty and unobviousness. The fact that Diethyl zinc is well known a commercially available contradicts applicant's argument that late transition metal alkyls are difficult to make. Applicants argue that diethyl zinc is not a polymerization catalyst, applicants are reminded that the instant claims are directed to a composition of matter, not a polymerization catalyst. Applicants argue that the examiner has used applicant's specification as a map to cobble together something that appears applicant's invention. This is not persuasive because the examiner merely included the reference of Quian to show that it was obvious to change substituents on a metal catalyst to affect its reactivity, and further that it is obvious to exchange an alkyl group for a halogen group in coordination chemistry. Applicants argue that Buchwald is not directed towards polymerization, but is solely directed towards specific reactions such as Heck and Suzuki. This is not persuasive because Buchwald clearly teaches that transition metal compounds are used for polymer preparation (column 1, lines 16-20). Applicants argue that rejections under 103 may rely on logic and sound scientific principle. However, when an examiner relies on a scientific theory, evidentiary support for the existence and meaning of that theory must be applied, and request the examiner to provide support for these theories.. This is not persuasive for at least the following 1.) These theories were not used in the 103 rejection, but in response to applicant's arguments 2.) Applicants have provided no reasoning that the theories of the examiner would not be correct. 3.) The statements 1-9 are based on scientific principle, and a review of any inorganic chemistry book, will show that these are given more regard than just theories, as there are mountains of data to support these observations, using logic and sound scientific principles.